

AMENDED IN ASSEMBLY MAY 26, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2456

Introduced by Assembly Member Wright
(Coauthor: Senator Alarcon)

February 24, 2000

An act to add Chapter 38 (commencing with Section 24980) to Part 13 of Division 1 of Title 1 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2456, as amended, R. Wright. State teachers' retirement: deferred retirement option program.

The State Teachers' Retirement Law prescribes service and disability retirement benefits for members of the Defined Benefit Program of the State Teachers' Retirement System.

This bill would establish the Deferred Retirement Option Program as a supplemental benefit program in the Defined Benefit Program, as specified. The bill would direct the board of administration of the system to implement the program no later than January 1, 2002, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 38 (commencing with Section 24980) is added to Part 13 of Division 1 of Title 1 of the Education Code, to read:

CHAPTER 38. DEFERRED RETIREMENT OPTION PROGRAM

Article 1. General Provisions

24980. This chapter shall be known and may be cited as the “Deferred Retirement Option Program.”

24980.1. The Deferred Retirement Option Program is hereby created to add flexibility to the system. It provides members who elect to participate in the program access to a lump sum or additional monthly payments for a specific period in addition to their normal monthly retirement allowance.

24980.2. The design and administration of the Deferred Retirement Option Program shall conform with the applicable provisions of Title 26 of the United States Code and the Revenue and Taxation Code.

24980.3. If any provision of this chapter or application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

24980.4. The board shall implement the Deferred Retirement Option Program pursuant to the provisions of this chapter no later than January 1, 2002, unless the board determines, by resolution, that the implementation tasks cannot be completed until a later date, in which case the board shall implement the program pursuant to this chapter no later than January 1, 2003.

24980.5. The board may adopt regulations to implement the program.

Article 2. Definitions

24982.1. “Program” means the Deferred Retirement Option Program established by this chapter.

~~24982.2. “Deferred retirement calculation date” means the date 36 months prior to the member’s actual retirement date as of which the allowance under the program shall be calculated as provided in Chapter 26 (commencing with Section 24100) of this part or Chapter 27 (commencing with Section 24201) of this part.~~

~~24982.3. “Program payment” means the amount to be paid to the member as a result of his or her participation in the program, as calculated in Section 24984.~~

Article 3. Eligibility

24983.1. A member shall be eligible to elect to participate in the program at any time after having met the minimum service requirements applicable for a service retirement and reached normal retirement age.

24983.2. A member who elects to participate in the program shall *voluntarily*:

(a) Make this election on a form prescribed and retained by the board prior to retirement.

~~(b) Designate his or her deferred retirement calculation date, which date shall be equal to 36 months prior to the member’s actual date of retirement and shall be subsequent to the date on which the member met the minimum service requirements for a service retirement and achieved normal retirement age.~~

~~(c) Receive benefits from the system upon retirement at the time and in the manner provided in this chapter.~~

~~(b) Continue to make member contributions pursuant to Chapter 15 (commencing with Section 22900).~~

~~(c) Cease, from and after the date the member begins participating in the program, to accrue benefits under Chapter 1 (commencing with Section 20000) through Chapter 31 (commencing with Section 24600).~~

~~(d) Have benefits credited to a Deferred Retirement Option Program Account pursuant to Section 24984.1.~~

1 (e) Accrue benefits from and after the date the
2 member begins participating in the program pursuant to
3 the terms of this chapter.

4 (f) Agree to continue to participate in the program for
5 at least one calendar year prior to termination of
6 employment.

7 (g) Receive benefits from the Defined Benefit
8 Program upon termination of employment at the time
9 and in the manner provided in this part.

10 (h) Execute waivers with respect to age and other
11 discrimination in employment laws as are required by the
12 employer or the system.

13 24983.3. The election to participate in the program
14 ~~shall be irrevocable.~~ may be rescinded within 90 days
15 after the date it is made. If the member rescinds the
16 program election, the member's benefits shall be
17 calculated as if the member had never entered the
18 program.

19 24983.4. Members who participate in the program
20 may not participate in the reduced worktime program, as
21 provided in Section 22713.

22 24983.5. Members who participate in the program
23 and reinstate from retirement shall not be eligible to
24 again participate in the program upon subsequent
25 retirement.

26
27 ~~Article 4. Calculation of Benefits~~

28
29 ~~24984. Upon the termination of employment and~~
30 ~~retirement of a member who has elected to participate in~~
31 ~~the program, the system shall calculate the following~~
32 ~~amounts:~~

33 (a) (1) ~~The member's monthly service retirement~~
34 ~~allowance as it would have been had the member retired~~
35 ~~on the deferred retirement calculation date in~~
36 ~~accordance with the optional settlement selected by the~~
37 ~~member; or~~

38 (2) ~~The amount of service used to calculate a disability~~
39 ~~retirement allowance shall be reduced by the deferred~~
40 ~~retirement period.~~

1 ~~(b) The benefit improvement factors that would have~~
2 ~~been applicable under Section 24402, assuming the~~
3 ~~deferred retirement calculation date is the base year for~~
4 ~~the adjustment.~~

5 ~~(c) The member's program payment, which payment~~
6 ~~shall be the amount calculated under subdivision (a),~~
7 ~~multiplied by 36, plus the benefit improvement factor~~
8 ~~calculated under subdivision (b). The program payment~~
9 ~~shall be credited with interest.~~

10
11 ~~Article 5. Distributions~~
12

13 ~~24985.1. Upon the termination of employment and~~
14 ~~retirement under the system, a member who has elected~~
15 ~~to participate in the program shall:~~

16 ~~(a) Receive the member's program payment, as~~
17 ~~calculated pursuant to subdivision (c) of Section 24984.~~

18 ~~(b) Begin receiving a monthly retirement allowance~~
19 ~~in the amount calculated pursuant to subdivision (a) of~~
20 ~~Section 24984.~~

21 ~~24985.2. The member shall select one of the following~~
22 ~~as the form of distribution of the member's program~~
23 ~~payment:~~

24 ~~(a) A single lump-sum payment.~~

25 ~~(b) Installment payments for a period of years~~
26 ~~pursuant to Section 24985.3.~~

27 ~~24985.3. (a) The member may elect to receive the~~
28 ~~actuarial equivalent of the program payment in monthly~~
29 ~~installments over a period established by the board.~~

30 ~~(b) The unpaid balance of the member's program~~
31 ~~payment shall be credited with interest.~~

32
33 ~~Article 4. Accounts~~
34

35 ~~24984.1. A Deferred Retirement Option Program~~
36 ~~Account is a nominal, bookkeeping account established~~
37 ~~within the plan for each participating member of the~~
38 ~~program. No plan assets shall be separately segregated for~~
39 ~~any program account. A member shall not have a claim~~
40 ~~on any specific assets of the plan.~~

1 24984.2. *The amount credited to a member's program*
2 *account shall be fully vested, except to the extent deemed*
3 *necessary by the board in its sole discretion to maintain*
4 *the system's tax-qualified status under the Internal*
5 *Revenue Code.*

6 24984.3. *The right of a member to a benefit under this*
7 *chapter is not subject to execution or any other process*
8 *whatsoever, except to the extent permitted by Section*
9 *704.110 of the Code of Civil Procedure, and is*
10 *unassignable, except as specifically provided under this*
11 *part. Notwithstanding any provision of this chapter to the*
12 *contrary, contributions, benefits, and service credit with*
13 *respect to qualified military service shall be provided in*
14 *accordance with Section 414(u) of Title 26 of the United*
15 *States Code.*

16 24984.4. *A member's program account shall be*
17 *credited monthly with an amount that represents both of*
18 *the following:*

19 (a) *The service retirement allowance that the*
20 *member would have received if the member had retired*
21 *on the date the member began participation in the*
22 *program.*

23 (b) *The normal contributions under Chapter 15*
24 *(commencing with Section 22900) and Chapter 16*
25 *(commencing with Section 22950) made by the member*
26 *and employer during the period of participation in the*
27 *program less an amount, determined by the board based*
28 *on an actuarial valuation, needed to offset the actuarial*
29 *and administrative costs of the program.*

30 24984.5. *The monthly amounts credited to a*
31 *member's program account shall reflect any cost-of-living*
32 *adjustments otherwise applicable to members who*
33 *retired on the date the member commenced*
34 *participation in the program.*

35 24984.6. *The program account shall be credited*
36 *monthly with interest pursuant to the following:*

37 (a) *Each account shall be credited monthly with*
38 *interest at the nominal monthly interest rate equivalent*
39 *to the annual effective Deferred Retirement Option*
40 *Program interest rate adopted by the board.*

1 ***(b) The nominal monthly interest rate shall apply to***
2 ***the balance in each account as of the beginning of each***
3 ***month and shall be applied before the monthly amounts***
4 ***described in Section 24984.4 for that month have been***
5 ***credited to the account.***

6 24984.7. *The board shall provide a statement to the*
7 *participating member that displays the value, or balance,*
8 *of the member's program account and summarizes any*
9 *credits to the account or other transactions that occurred*
10 *after the immediately preceding valuation date. The*
11 *statement of account shall be provided at least once*
12 *annually to each participating member.*

13
14 Article 5. *Beneficiary Designation*
15

16 24985.1. *Except as specified in Section 24986.3, the*
17 *participating member may designate a person or persons*
18 *as beneficiaries at the time the member elects to*
19 *participate in the program. The beneficiary or*
20 *beneficiaries shall be designated on a form prescribed by*
21 *the board, signed by the member, and delivered to a plan*
22 *representative prior to the effective date of the member's*
23 *election under this chapter.*

24 24985.2. *Notwithstanding Section 24985.1, the*
25 *member's beneficiary designation shall not be given*
26 *effect and shall be overridden to the extent that*
27 *designation would impair the rights of any surviving*
28 *spouse under applicable federal or state law.*

29 24985.3. *Unless otherwise provided in the beneficiary*
30 *designation form, each designated beneficiary shall be*
31 *entitled to equal shares of the lump-sum distribution that*
32 *may be payable from the member's program account*
33 *upon the death of the member.*

34 24985.4. *If the participating member dies without a*
35 *valid beneficiary designation on file, or if no designated*
36 *beneficiary survives the member, any balance remaining*
37 *in the member's program account shall be payable to the*
38 *member's estate.*
39

Article 6. Additional Provisions

24986.1. If a member becomes disabled while participating in the program, the member shall be eligible to apply for disability retirement and shall be subject to the same disability eligibility requirements as if the member were not in the program. If the board approves the application for disability retirement benefits:

(a) The disability retirement benefit shall be calculated using the factors of age, service, and final compensation in effect the day before the effective date of participation in the program.

(b) All amounts in the member's program account shall be distributed pursuant to Section 24987.4.

24986.2. If a member dies within one calendar year after the date the member begins participation in the program, the member shall be deemed to have retired on the date of death and died after retirement.

24986.3. If a member marries while participating in the program, the marriage shall be deemed to have occurred prior to the member's retirement for purposes of satisfying any applicable benefit eligibility requirement. In addition, the member may, within two months of the date of the marriage, revise the beneficiary election made under Section 24985.1. If there is a change in the beneficiary designation, the new designation shall be retroactive to the effective date of the member's election to participate in the program for all purposes, including determination of the member's program account balance.

24986.4. (a) Participation in the program may be terminated by voluntary or involuntary termination of employment or retirement for service at any time; provided, however, that if termination occurs prior to the first anniversary of the date the member began participation in the program, the member shall not begin to receive any benefits pursuant to Section 24987.1 or 24987.4 until that first anniversary date.

1 (b) If a termination for cause is reversed, a member's
2 participation in the program, less any benefits previously
3 distributed pursuant to Section 24987.4, shall be
4 reinstated.

5 (c) The member's participation in the program shall
6 be terminated by the death of the member or the
7 approval of disability retirement benefits by the board.

8 24986.5. A member who elects to participate in the
9 program shall have all of the rights, privileges, and
10 benefits, and is subject to all other terms and conditions,
11 of active employment.

12 24986.6. The member's employer shall continue to
13 make contributions to the plan based on the member's
14 active compensation while the member is a participant in
15 the program.

16
17 Article 7. Distributions
18

19 24987.1. Upon the termination of participation in the
20 program and retirement for service, a member shall:

21 (a) Receive the amounts credited to the member's
22 program account, including interest prescribed by
23 Section 24987.5.

24 (b) Begin receiving a monthly retirement allowance
25 in the amount being credited to the member's program
26 account.

27 24987.2. Application for a retirement benefit shall be
28 made on an application form prescribed by the board.

29 24987.3. The employer shall certify on a form
30 prescribed by the board that the participating member's
31 employment has terminated.

32 24987.4. A member shall select one of the following as
33 the form of distribution of the member's program
34 account:

35 (a) A single lump-sum payment.

36 (b) Substantially level installment payments for a
37 period of years pursuant to the provisions of Section
38 24987.5.

39 24987.5. (a) The member may elect to receive
40 payment of the program account in equal monthly

1 *installments over a period established by the board and*
2 *in accord with applicable provisions of the Internal*
3 *Revenue Code.*

4 *(b) The balance in the member's account during the*
5 *installment payout period shall be credited with interest*
6 *monthly at the same rate as is being credited to program*
7 *accounts for currently active members.*

8 (c) No benefit maintenance payment pursuant to
9 Chapter 29 (commencing with Section 24400) of this part
10 shall be made to the monthly amount being paid pursuant
11 to this section.

12 ~~24985.4.~~

13 24987.6. Notwithstanding any other provision of this
14 chapter, a member, nonmember spouse, or beneficiary
15 shall not be permitted to elect a distribution under this
16 chapter that does not satisfy the requirements of Section
17 401(a)(9) of Title 26 of the United States Code, including
18 the incidental death benefit requirements of Section
19 401(a)(9)(G) of Title 26 of the United States Code and
20 the regulations thereunder. The required beginning date
21 of distributions that reflect the entire interest of the
22 member shall be as follows:

23 (a) In the case of a lump-sum distribution to the
24 member, the lump-sum payment shall be made not later
25 than April 1 of the calendar year following the later of the
26 calendar year in which the member attains the age of 70
27 and one-half years or the calendar year in which the
28 member terminates all employment for the employer.

29 (b) In the case of a distribution to the member in the
30 form of installment payments, payment shall begin not
31 later than April 1 of the calendar year following the later
32 of the calendar year in which the member attains the age
33 of 70 and one-half years or the calendar year in which the
34 member terminates all employment subject to coverage
35 by the plan.

36 (c) In the case of a benefit payable on account of the
37 member's death, distributions shall be paid no later than
38 December 31 of the calendar year in which the fifth
39 anniversary of the member's date of death occurs unless
40 the beneficiary is the member's spouse in which case

distributions shall commence on or before the later of either:

(1) December 31 of the calendar year immediately following the calendar year in which the member dies.

(2) December 31 of the calendar year in which the member would have attained the age of 70 and one-half years.

~~Article 6. Beneficiaries~~

~~24986. The beneficiary or beneficiaries entitled to receive any remaining balance of the monthly installments specified in Section 24985.3 shall be the same beneficiary or beneficiaries designated by the member to receive the postretirement death benefit provided by Chapter 24 (commencing with Section 23880) of this part.~~